



DEPARTMENT OF HEALTH & HUMAN SERVICES

OFFICE OF THE GENERAL COUNSEL
General Law Division330 Independence Avenue, S.W., Room 4760
Mail Stop: Capitol Place
Washington, D.C. 20201

MAY 22 2013

CERTIFIED - RETURN
RECEIPT REQUESTED

Alexander M. Sukhman, Esquire
Kralovec, Jambois & Schwartz
Goodman Theatre Building
60 W. Randolph Street, 4th Floor
Chicago, Illinois 60601

RE: Anais Ortiz, o/b/o the Estate of Antonio Ortiz, deceased
infant; Anais Ortiz, individually 2013-0210 and 0211

Dear Mr. Sukhman:

On February 14, 2013, you filed two administrative tort claims under the Federal Tort Claims Act ("FTCA"), 28 U.S.C. §§ 1346(b), 2401(b), 2671-2680, on behalf of your client, Anais Ortiz, alleging, *inter alia*, that an employee of PCC Community Wellness Center, in Oak Park, Illinois, failed to appropriately manage the labor and delivery of Ms. Ortiz on December 7, 2011, resulting in her infant, Antonio Ortiz suffering hypoxic-ischemic encephalopathy and dying on December 16, 2011.

The FTCA authorizes the settlement of any claim of money damages against the United States for, *inter alia*, injury or death caused by the negligent, or wrongful, act or omission of any employee of the Federal Government, while acting within the scope of employment. Under the FTCA, said act or omission must be such that the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred. 28 U.S.C. § 2672.

This letter constitutes the notice of final determination on these claims, as required by 28 U.S.C. §§ 2401(b), 2675(a). The claims are denied. The evidence fails to establish that the alleged injuries and the death of Antonio Ortiz, were due to the negligent or wrongful act or omission of a federal employee acting within the scope of employment.

If your client is dissatisfied with this determination, she may:

1. file a written request with the agency for reconsideration of the final determination denying the claims within six (6) months from the date of mailing of this determination (28 C.F.R. § 14.9); or
2. file suit against the United States in the appropriate federal district court within six (6) months from the date of mailing of this determination (28 U.S.C. § 2401(b)).



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In the event your client requests reconsideration, the agency will review the claims within six (6) months from the date the request is received. If the reconsidered claims are denied, your client may file suit within six (6) months from the date of mailing of the final determination.

Sincerely,

William A. Biglow / by *KAH*

William A. Biglow
Acting Deputy Associate General Counsel
Claims and Employment Law Branch